

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

**IN RE: NATIONAL PRESCRIPTION,
OPIATE LITIGATION**

MDL NO. 2804

Case No. 17-MD-2804

Judge Dan Aaron Polster

THIS DOCUMENT RELATES TO:

Rees v. McKesson Corporation, et al.
MDL Case #1:18-OP-45252

Rodriguez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45463

Gauthier v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45478

Wood v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45264

Ellis v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45464

Simonson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45479

Salmons v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45268;

DeMaro v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45465

Delancey v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45480

Ambrosio v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45375

Cruz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45466

Stewart v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45481

Flanagan v. Purdue Pharma L.P., et al.
MDL Case #1:18-OP-45405

Paul v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45467

Shewmake v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45482

Whitley v. Purdue Pharma LP., et al.
MDL Case #1:18-OP-45598

Lechuga v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45468

Weatherwax v. Purdue Pharma, LP., et al.
MDL Case No. #1:19-op-45483

Roach v. McKesson Corporation, et al.
MDL Case No. #1:18-OP-45662

Brumbarger v. Purdue Pharma, LP., et al.
MDL Case No. #1:19-op-45469

Martinez v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45484

Hunt v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-OP-45681

Means v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45470

Williams, v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45485

Moore v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46305

Peterson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45472

Warren v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45486

Doyle v. Purdue Pharma L.P., et al.
MDL Case No. #1:18-op-46327

Hampel v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45473

Carlson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45487

Hanlon v. Purdue Pharma L.P., et al.
MDL Case No. #1:19-op-45052

Whittaker v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45475

Flach v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45488

Artz v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45459

Tuttle v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45476

Ivie v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45489

Gilson v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45461

Hamawi v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45477

Cherry v. Purdue Pharma, L.P., et al.
MDL Case No. #1:19-op-45490

<i>Ortiz v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45492	<i>Goss v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45518	<i>Patterson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45534
<i>Meinecke v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45493	<i>Herring v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45519	<i>Perkins v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45535
<i>Brant v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45494	<i>Howell v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45520	<i>Shepard v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45536
<i>Alexander v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45502	<i>Johnson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45521	<i>Underwood v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45537
<i>Berzinski v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45503	<i>Kommer v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45522	<i>Richardson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45538
<i>Johnson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45504	<i>Lively v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45523	<i>Puckett v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45539
<i>Hutchins v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45505	<i>Lyle v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45524	<i>VonCannon v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45540
<i>Collier v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45506	<i>Massey v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45525	<i>Whittington v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45541
<i>Muffley v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45507	<i>McAnany v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45526	<i>Thomas v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45542
<i>Martin v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45508	<i>Shockley v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45527	<i>Wright v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45543
<i>Kirk v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45509	<i>Taylor v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45528	<i>Scully v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45544
<i>Martin v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45510	<i>Taylor v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45529	<i>Watson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45545
<i>Dixon v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45511	<i>Tindall v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45530	
<i>Gauthier v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45514	<i>Atkinson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45531	
<i>Gibson v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45515	<i>Goforth v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45532	
<i>Goldman v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45516	<i>Chancey v. Purdue Pharma, L.P., et al.</i> MDL Case No. #1:19-op-45533	

MEMORANDUM IN SUPPORT OF MOTION TO APPOINT
SCOTT BICKFORD, ESQ. AS NAS BABY LIAISON

MAY IT PLEASE THE COURT:

Plaintiffs/Movants include all but one “NAS Baby Plaintiff” whose case is pending in this MDL. Plaintiffs move the Court to appoint Scott Bickford, Esq, as NAS Baby Liaison counsel for the following reasons.

The Court has established multiple tracks in this MDL, none of which include NAS Babies.¹ The Court has likewise appointed a PEC comprised of counsel for local governments, hospitals and third-party payors and Native Americans, none of whom represent NAS Babies. The Court has twice denied NAS Plaintiffs leave to move for creation for a track for their cases and has indicated that it is disinclined to expand the ranks of the PEC to include representative counsel for the NAS Babies. Plaintiffs have been prohibited from conducting discovery, attending non-docketed status conferences, and until July 12, 2019 have been denied access to ARCOS’ data or the discovery conducted by others in this litigation.

Thus far, the only “separate treatment” accorded the NAS Babies in this litigation came in the form of a June 6, 2019 Order requiring the defendants to move to strike the plaintiffs’ class action allegations, wherein the Court stated it had become “aware that defendants do not believe class certification is appropriate in any of the NAS cases.” Rec. Doc. 1662. Plaintiffs were unaware of the circumstances leading the Court to issue this order precisely because they have no seat at the table and have not been invited to participate in such discussions. Although the Court granted plaintiffs’ motion for reconsideration on July 11, 2019, the Order incorrectly states that the PEC had been providing the NAS baby plaintiffs with access to discovery. Rec Doc 1829.

¹ It is true that the Native-American track includes Native -American NAS babies, so that discreet group of afflicted NAS babies does have a special representative in this MDL. But all non- Native American babies do not.

Had an NAS Baby representative been noticed to participate, the Court would have known that not only did the NAS baby plaintiffs not have access to PEC discovery by July 11, 2019 but they were still awaiting ARCOS' data notwithstanding this Court's June 24, 2019 Order granting ARCOS access.

As this Court (and the PEC) turns its focus toward settlement, the NAS Babies' need to have a recognized representative will become even more acute. This is especially true as the PEC may become Class Counsel for a 'negotiating class' with competing duties to the MDL, the class members, and others in the MDL where projected damages could easily surpass resources to fund them.

Additionally, on December 14, 2018, this Court, when denying the NAS babies' renewed motion for leave to file a separate track motion, directed the PEC to meet with NAS counsel to "address how Plaintiffs' needs might be more adequately addressed." Rec Doc. 1185. That process, while helpful, did not result in final access to discovery and ARCOS until last week. The liaison role should assist in shortening time delays.

For these reasons, underscored by the unique place of the NAS Babies in this litigation which have been urged and re-urged in previous filings, plaintiffs request that the Court appoint Scott Bickford, Esq. to serve as NAS Baby Liaison. In this role, Plaintiffs envision that Mr. Bickford would have a recognized role, something less than a separate track, but a role that permits timely information exchanges, invitations to be communicated, and court appearances allowed. The envisioned role would allow for formal communications with the Court, the PEC, the Defense Committees, and the 'negotiating class' (if granted) on all issues related to the NAS babies' interests. Thus preventing, among other things, incorrect facts related to the babies to find a place in court orders and the court record generally. This role will also ensure that the NAS babies are

afforded due process by allowing a designated liaison to receive adequate notice and the opportunity to participate in the MDL in a meaningful way. And is entirely consistent with the JPML's charge to this Court to "ensure that non-leadership counsel and other litigants are treated appropriately in this litigation." Rec. Doc. 1185

Mr. Bickford is well-qualified to serve in this capacity and he enjoys the support of all the other NAS baby attorneys. His resume is attached as Exhibit no. 1

Respectfully submitted,

/s/Scott R. Bickford

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2019, a copy of the above and foregoing has been electronically filed with the Clerk of Court using the CM/ECF system, which provides an electronic service notification to all counsel of record registered as CM/ECF users.

/s/Scott R. Bickford